UNITED STATES PATENT AND TRADEMARK OFFICE

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09/945,096	08/31/2001	Melissa E. DeRosier	4846-001	3163

24112 7590 05/25/2006	EXAMINER
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ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 April 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-5,7-17 and 19-38</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5,7-17 and 19-38</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>07 April 2006</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This **Final** Office Action is in response to Applicant's amendment filed April 7,

2006. Applicant's amendment amended claims 1-5, 7-17 and 19-37, canceled claims 6

and 18 and added new claim 38. Currently claims 1-5, 7-17 and 19-38 are pending.

Response to Amendment

2.   The objection to the Drawing is withdrawn in response to the Applicant's

submission of a replacement drawing.

Response to Arguments

3.   Applicant's arguments with respect to claims 1-5, 7-17 and 19-38 have been

considered but are moot in view of the new ground(s) of rejection.

It is noted that the applicant did not challenge the officially noticed facts cited in

the First Office Action therefore those statements as presented are herein after prior art.

Specifically it has been established that it was old and well known in the art at the time

of the invention:

- to perform error checking by re-executing (re-sampling, re-taking, re-

presenting) similar or identical questions during a survey;

- to classify/categorize respondents into a plurality of categories such as

popular, rejected, neglected, controversial, average and unclassified utilizing one or

more sociometric parameters, specifically using social preference and social impact, as

well as to classify respondents "falling" into the middle range of values on a continuous/linear spectrum from popular → neglected as average (typical, common, normal, etc.);

   - to indicate the probability score (concordance, correspondence, accuracy, strength/weakness, etc.) of a calculated/determined measure (metric, value, parameter, score, etc.) to a classification/category wherein such scores provide an indication of the how "close" (well) the score is to the "ideal" (typically, expected) value(s) for that category; and

   - to represent a continuous value (measure, score, etc.) utilizing a continuum/scale/range via a linear bar/graph (slider bar) provides a convenient mechanism for indicating where on the continuum a value lies.

Declarations under 37 CFR 1.131

4.   The affidavit by Dr. Derosier filed on April 7, 2006 under 37 CFR 1.131 has been

considered but is ineffective to overcome the Sociometry In The Classroom: How To Do

It (October 19, 2000) reference.

        The affidavit filed April 7, 2006 reconstructs a timeline for the instant application

discloses that the invention was conceived at least as early as November 1999 (date of

conception), successively released in pre-release system versions (alpha, beta)

between January 2000-August 2000 and created on October 22, 2000 as 3-C SCAN

Version 1.0 (reduction to practice; Last Paragraph, Page 2; First Paragraph, Page 3).

The affidavit additional provides several screen shots of file folders containing the

filenames of what is disclosed as Java code for the 3-SCAN system/method (Exhibit 1,

Figures 1-3).

        In order to effectively swear behind the Sherman, Lawrence, Sociometry In The

Classroom: How To Do It (October 19, 2000) reference the Affidavit filed on April 7,

2006 under 37 CFR 1.131 must either: 1) establish conception of the invention coupled

with due diligence just before October 19, 2000 to reduction to practice (actual or

constructive), or 2) show actual reduction to practice before October 19, 2000. See

MPEP 715.

With respect to establishing conception of the invention, the Affidavit filed on April 7, 2006 under 37 CFR 1.131 is insufficient to establish conception of the invention with respect to claims 1-5, 7-17 and 19-38. In order to establish conception of the invention, the Affidavit must show that the inventor(s) had conceived of *each and every limitation of the claims*. As per MPEP 2138.04, conception is established "when the invention is made sufficiently clear to enable one skilled in the art to reduce it to practice without the exercise of extensive experimentation." The Affidavit of Dr. Derosier does not persuasively show that the inventor(s) had conceived of *each and every limitation* of claims 1-5, 7-17 and 19-38 prior to October 19, 2000 as it is unclear when and if each and every one of the claimed features where present in the 3-C SCAN system/method as the affidavit merely contains screen shots of file folders containing filenames of a plurality of program code files purportedly used in the design, development and/or implementation of the claimed invention (Exhibit 1).

Examiner suggests applicant(s) map each and every one of the claimed features to the disclosed timeline thereby making it clear as to when each of the features was conceived as well as reduced to practice. Further examiner suggests applicant(s) provide additional evidence regarding the specific features implemented in the 3-SCAN system/method (e.g. help files, user guide, manuals, training, etc.) to support the applicant(s) claims that the 3-SCAN system/method provided each and every one of the claimed features.

With respect to due diligence, diligence comes into question only after prior

conception is established which in the present case has not been sufficiently

established. See MPEP 715.07(a). Under 37 CFR 1.131, the critical period in which

diligence must be shown begins just prior to the effective date of the reference and ends

with the date of a reduction to practice, either actual or constructive (i.e., filing a United

States patent application). In the present case the evidence submitted is insufficient to

establish diligence from a date prior to October 19, 2000 through October 22, 2000.

According to MPEP 2138.06, merely stating that there were no weeks or months that

the invention was not worked on is not enough. MPEP 2138.06 also states that even a

2-day period lacking activity has been held to be fatal. The period during which

diligence is required must be accounted for by either affirmative acts or acceptable

excuses. Thus, Applicant has not accounted for the entire period from just prior to the

effective date of the reference and ends with the date of a reduction to practice. Rather,

the timeline during the critical period only shows sporadic activity.

With respect to reduction to practice, reduction to practice may be an actual

reduction to practice or a constructive reduction to practice (i.e., the filing of a patent

application). In the present case, Applicant is attempting to establish actual reduction to

practice to before the Sherman (October 19, 2000) reference. Establishing actual

reduction to practice for a process requires *all of the steps* of the claimed process to

have been successfully performed. See MPEP 2138.05. The evidence submitted is

insufficient to establish a reduction to practice of the invention in this country or a

NAFTA or WTO member country prior to the Sherman reference. The Affidavit has not persuasively shown the inventor(s) successfully performed all of the steps of at least the independent claims prior to October 19, 2000.

In particular, taking claim 1 for example, the evidence fails to show the successful performance of the any of the steps of the process prior to October 19, 2000. Neither the Affidavit nor the Exhibit show 1) creating a sociometric questionnaire comprising a plurality of sociometric questions related to social status and/or social relationships, 2) accepting responses to the sociometric questionnaire, and 3) a analyzing and outputting the sociometric analysis of the responses. While the affidavit discusses the instant application's timeline and Exhibit 1 provides several screen shots containing the filenames of Java code purportedly used in the design, development and/or implementation of the claimed invention, none of the steps in question appear to have been actually performed before October 19, 2000. At best, the Affidavits show evidence of Java code development before October 19, 2000.

Therefore, the Affidavit has not persuasively shown the inventor(s) successfully performed all of the steps of at least the independent claims prior to October 19, 2000 and thus, Applicant has not effectively sworn behind the Sherman reference by the second means.

In conclusion, the evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the

effective date of the Sherman, Lawrence, Sociometry In The Classroom: How To Do It (October 19, 2000) reference.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Sherman, Lawrence, Sociometry In The Classroom: How To Do It (October 19, 2000) reference to either a constructive reduction to practice or an actual reduction to practice.

The evidence submitted is insufficient to establish conception of the invention with respect to claims 1-5, 7-17 and 19-38.

Therefore, the Affidavit filed on April 7, 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Sherman, Lawrence, Sociometry In The Classroom: How To Do It (October 19, 2000) reference.

Further it is noted that the Affidavit by Dr. Derosier filed April 7, 2006 contains statements/notes ("Early History of the 3-SCAN Program, Exhibit 1), which appear to be the work of co-inventor Mr. Jim Thomas, one of the inventors, however the notes/statement have not been signed by Mr. Thomas.

Title

5.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

The following title is suggested: System and Method for Performing Sociometric

Data Collection and Analysis For the Sociometric Classification of Schoolchildren.

Claim Objections

6.   Claim 11 is objected to because of the following informalities: claim 11 contains

a grammatical error "standardizing said sum within said group;" instead of the intended

"standardizing said sum within said group.". Appropriate correction is required.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1, 7-17 and 19-37 are rejected under 35 U.S.C. 103(a) as being

unpatentable over SociometryPlus by Online, Ltd. aspects of which are disclosed in at

least the following:

I.   SociometryPlus 2.0b – Help Files & Screen Shots (April 2000), hereinafter

reference A; and

II. Sociometry.com Web Pages (April 2000), herein after reference B

in view of Sherman, Lawrence, Sociometry In The Classroom: How To Do It

(October 19, 2000).

Regarding Claims 1, 26 and 32 SociometryPlus teaches a system (a single

software application) and method for performing sociometric analysis of a group of

individuals comprising (reference A: Figures 1-18, Pages 21-29):

- creating a sociometric questionnaire comprising a plurality of sociometric

questions relating to social status or relationships, each question including a plurality of

potential nominations corresponding to the individuals in the group and each question

soliciting at least one nomination from the group (reference A: Pages 1, 4-5; Figures 2-

7);

- accepting responses to the questionnaire (reference A: Pages 1, 4-5; Figures

17-18); and

- analyzing and outputting the questionnaire responses to generate a

sociometric analysis/report of social status and/or social relationships (e.g. Social status

index (S) and rank (R) in a group, Positive expansion, Interaction concentration indexes,

Positive (+) and negative (-) interrelations indexes, Group sociometric indexes, etc.;
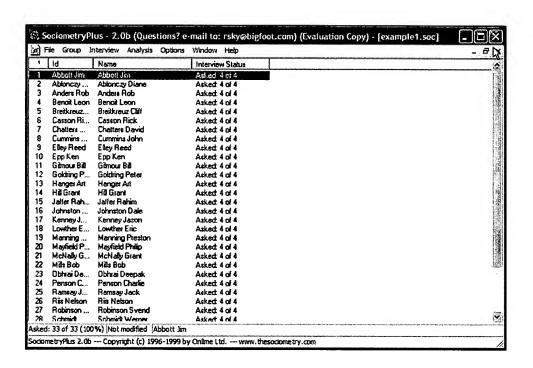
reference A: Pages 6-20; Figures 8-12).
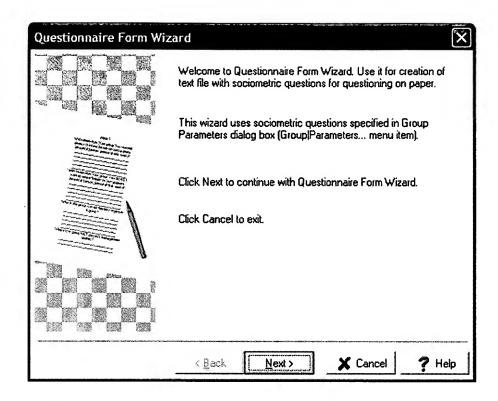

Figure 1: SociometryPlus - Main Screen

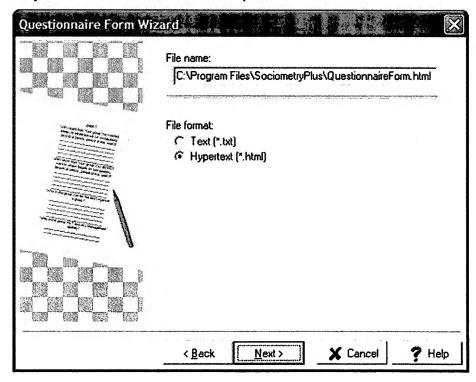**Figure 2: SociometryPlus - Questionnaire Wizard Step 1**

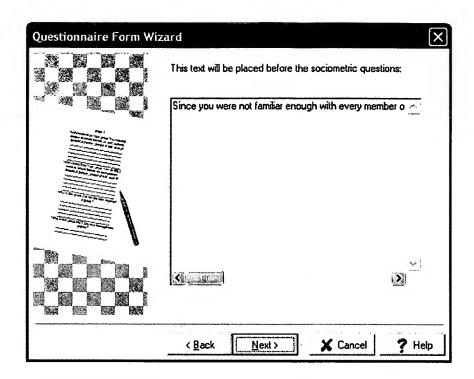**Figure 3: SociometryPlus - Questionnaire Wizard Step 2**

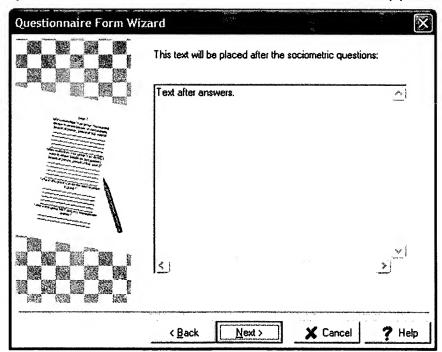**Figure 4: SociometryPlus - Questionnaire Wizard - Enter Sociometric Question(s)**

Figure 5: SociometryPlus - Questionnaire Wizard

Figure 6: SociometryPlus - Questionnaire Wizard Final Step

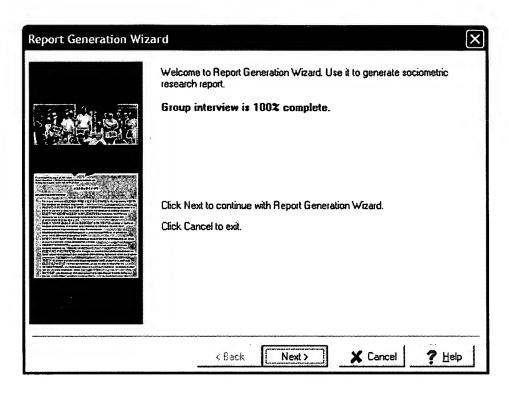**Figure 7: SociometryPlus - Questionnaire Wizard - Generated Questionnaire**

Figure 8: SociometryPlus - Report Generation Wizard Step 1

Figure 9: SociometryPlus - Report Generation Wizard Step 2

Figure 10: SociometryPlus - Report Generation Wizard Step 3

Figure 11: SociometryPlus - Report Generation Wizard Step 4

Report Generation Wizard ☒

Brief Explanation is a text which is included at the beginning of the Sociometric Report to explain some sociometric terms used in Report.

☑ Add Brief Explanation to Report

Brief Explanation Text:

```
<b>BRIEF EXPLANATION</b>
The numerical meaning of SOCIAL STATUS INDEX (S) determines R/
POSITIVE EXPANSION INDEX characterizes individual's role in the g
INTERACTION CONCENTRATION INDEX shows person's ability, as
INDIVIDUAL's POSITIVE (NEGATIVE) INTERRELATION INDEX indi
GROUP COHESION INDEX is expressed in percentage (%%) from the
CONFLICT INDEX represents negative phenomena relationships betw
MUTUAL CONNECTION INDEX represents frequency of of social inte
INDEX OF REFERENCE shows how mutual relationshipsrelate to one-
LEADER is a group member who was selected most frequently.
INDIVIDUALIST is a group member who does not select anybody.
```

Note: You can use HTML tags to format this text.

< Back | Next > | ✗ Cancel | ? Help

Figure 12: SociometryPlus - Report Generation Wizard Step 5

Online
Sociometry Plus ™

SociometryPlus is a trademark of Onlime Ltd.

Register "SociometryPlus"...

Enter Registration Code...

Version 2.0b (2.0.2.47).
Copyright (c) 1996-2000 Onlime Ltd.

E-mail: support@thesociometry.com
Web: www.thesociometry.com

This is an evaluation copy of "SociometryPlus". You may legally use it for 30 days before purchasing the licensed version.
You have 30 days left in your evaluation period.

Figure 13: SociometryPlus About

Select your group:

example1.soc
example2.soc

Hint: Use arrow keys to move around the list, press Enter to select.

Figure 14: SociometryPlus - Group Interview - Select Group

Select your name:

Abbott Jim
Ablonczy Diane
Anders Rob
Benoit Leon
Breitkreuz Cliff
Casson Rick
Chatters David
Cummins John
Elley Reed
Epp Ken
Gilmour Bill
Goldring Peter
Hanger Art
Hill Grant
Jaffer Rahim
Johnston Dale
Kenney Jason
Lowther Eric

Hint: Use arrow keys to move around the list, press Enter to select.

Figure 15: SociometryPlus - Group Interview - Select Interviewee

Instructions

You will be asked some questions.
Please answer quickly without spending too much time on any given question. Choose what first comes to your mind.
Answering a question select a person's name from the list (or several names). Put a check mark next to the name. Depending on the group size you may choose up to 5 names.
* To move the cursor use arrow keys.
* To select press [Spacebar] or click with the right button in the box next to the name. To deselect click on the name again.
* After you answered the question - press [Enter] or "Next >"
* If you made a mistake, you can return to the previous question by clicking "< Back" button.
Good luck!

Press Enter to continue

Figure 16: SociometryPlus - Group Interview - Instructions
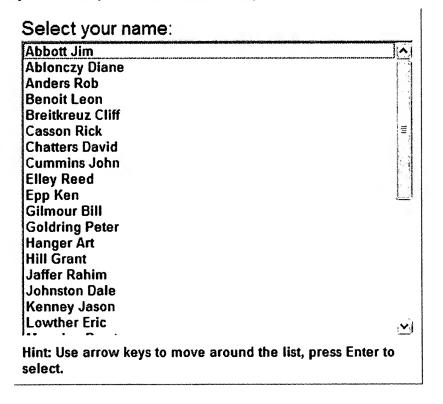
Abbott Jim

Please answer this question:

1. Who from Your group would You like to be around in business settings (work, internship, practicum)?

Your choice:

Benoit Leon
Hill Grant
Ablonczy Diane
Penson Charlie
Epp Ken

☐ Abbott Jim
☑ Ablonczy Diane
☐ Anders Rob
☑ Benoit Leon
☐ Breitkreuz Cliff
☐ Casson Rick
☐ Chatters David
☐ Cummins John
☐ Elley Reed
☑ Epp Ken
☐ Gilmour Bill
☐ Goldring Peter
☐ Hanger Art
☑ Hill Grant
☐ Jaffer Rahim
☐ Johnston Dale
☐ Kenney Jason
☐ Lowther Eric
☐ Manning Preston

☐ Mayfield Philip
☐ McNally Grant
☐ Mills Bob
☐ Obhrai Deepak
☑ Penson Charlie
☐ Ramsay Jack
☐ Riis Nelson
☐ Robinson Svend
☐ Schmidt Werner
☐ Solberg Monte
☐ Strahl Chuck
☐ Thompson Myron
☐ White Randy
☐ Williams John

Use arrow keys to move around the list, press [Spacebar] to select name, press [Enter] for next question.

< Prev   ✔ Next ≥   ✗ Stop

Figure 17: SociometryPlus - Group Interview - example "like" question

Abbott Jim

Please answer this question:

1-2. Whom from Your group would You
not like to be around in business
settings (work, intership, practicum)?

Your choice:

Solberg Monte
Hill Grant
Williams John
Ramsay Jack
Jaffer Rahim

☐ Abbott Jim   ☐ Mayfield Philip
☐ Ablonczy Diane   ☐ McNally Grant
☐ Anders Rob   ☐ Mills Bob
☐ Benoit Leon   ☐ Obhrai Deepak
☐ Breitkreuz Cliff   ☐ Penson Charlie
☐ Casson Rick   ☑ Ramsay Jack
☐ Chatters David   ☐ Riis Nelson
☐ Cummins John   ☐ Robinson Svend
☐ Elley Reed   ☐ Schmidt Werner
☐ Epp Ken   ☑ Solberg Monte
☐ Gilmour Bill   ☐ Strahl Chuck
☐ Goldring Peter   ☐ Thompson Myron
☐ Hanger Art   ☐ White Randy
☑ Hill Grant   ☑ Williams John
☑ Jaffer Rahim
☐ Johnston Dale
☐ Kenney Jason
☐ Lowther Eric
☐ Manning Preston

Use arrow keys to move around the list, press [Spacebar] to select name, press [Enter] for next question.

↻ ≤ Prev   ✓ Next ≥   ✗ Stop

Figure 18: SociometryPlus - Group Interview - example "not like" question

While SociometryPlus teaches that a plurality of practitioners perform

goniometric analysis including teaches (Paragraph 3, Page 2) SociometryPlus does not

expressly teach that the sociometric analysis of *schoolchildren* as claimed.

Sherman teaches performing the sociometric analysis of school children in an

analogous art of sociometric analysis for the purposes of using well-known sociometric

techniques and methods to understand schoolchildren status and/or relationships in

order to identify potentially at risk children (Paragraphs 1-2, Page 3).

More generally Sherman teaches the traditional and well known methods for

collecting and analyzing sociometric data including: peer nominations/ratings,

sociometric ranking, social distance, recognition scale (Page 39), target technique

(Pages 12-13) and the like (Pages 1, 12, 17) as well as the generating of a plurality of

sociometric measures, some of which are standardized, including but not limited to

social distance (Pages 41-42), z-scores (e.g. social preference, social impact; Page 40),

social status (Page 40), weighted popularity (Page 38); sociograms (Page 5, 12, 38;

Figure 4), nominee/nominator matrix (Page 8), personal social distance rating (Page 41,

Last Paragraph); bar graphs (Page 10, Figure 3), social ranking (Pages 42-43), and the

like.

Sherman further teaches classifying individuals, based on one or more

sociometrics, including but not limited to popular, liked more than disliked, disliked more

than like, controversial, rejected and neglected (Pages 12-13, 41).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method performing sociometric analysis as taught by

SociometryPlus would have been used to perform sociometric analysis on any of a

plurality of individuals and/or groups including but not limited to schoolchildren in view of

the teachings of Sherman; the resultant system/method enabling teachers/educators

understand schoolchildren status and/or relationships in order to identify potentially at

risk children (Sherman: Paragraphs 1-2, Page 3).

Regarding Claims 7, 27 and 33 SociometryPlus teaches a system and method

for collecting and analyzing sociometric data wherein accepting user responses to the

sociometric questionnaire further comprises:

- displaying on a computer screen a replica of the sociometric questionnaire,

including the plurality of potential nominations associated with each question (reference

A: Page 5; Figures 17-18 as shown above; reference B: Pages 1-3); and

- indicating selected nominations in response to one ore more displayed

nominations (reference A: Figures 17-18 as shown above; reference B: Pages 1-3).

Regarding Claims 8-10 SociometryPlus does not expressly teach performing

error checking by re-executing the question(s), comparing the nominations between the

original and re-executed question(s), flagging deterred errors or correcting the detected

errors as claimed.

Official notice is taken that error checking by re-executing (re-sampling, re-taking,

re-presenting) similar or identical questions during a survey is an old and well known

technique wherein users responses can be analyzed to determine such thing as

response drift (responses change over time), response inconsistency or the like.

For example surveyors may wish to know (i.e. identify and flag) if an respondent

is truly answering the posed questions or simply going through the motions (i.e.

selection answers randomly or some pattern just to complete the survey) and potentially

ignoring/discounting respondents who exhibit such patterns.

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for collecting and analyzing sociometric data as taught by

SociometryPlus would have benefited from performing error checking/correction on the sociometric survey in view of the teachings of official notice; the resultant system/method enabling users to identify and potential discount respondents who are not truly answering the questions (i.e. merely going through the motions).

Regarding Claim 11 SociometryPlus teaches a system and method for collecting and analyzing sociometric data wherein analyzing the responses further comprises summing the total nominations an individual received from other individuals for each question and standardizing the sum within the group (e.g. social status index, positive expansion measures are between 0 and 1; reference A: SociometryPlus Report, Pages 8-20).

SociometryPlus does not expressly teach performing sociometric analysis on schoolchildren as claimed.

Sherman teaches performing sociometric analysis on schoolchildren wherein the analysis comprises summing the total nominations that a schoolchild received from other schoolchildren and standardizing the sum in an analogous art of sociometric analysis for the purposes of understanding schoolchildren status and/or relationships in order to identify potentially at risk children (Paragraphs 1-2, Page 3).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for performing sociometric analysis would have benefited

from performing sociometric analysis on schoolchildren wherein the analysis comprises

summing the total nominations that a schoolchild received from other schoolchildren

and standardizing the sum in view of the teachings of Sherman; the resultant

system/method enabling teachers/educators understand schoolchildren status and/or

relationships in order to identify potentially at risk children (Sherman: Paragraphs 1-2,

Page 3).

Regarding Claim 12 SociometryPlus does not expressly teach performing

sociometric analysis of schoolchildren or generating first/second-standardized factors

(SF1, SF2) computing first/second scores (S1/S2) or standardizing the first/second

(SS1, SS2) as claimed.

Sherman teaches performing sociometric analysis of schoolchildren, as

discussed above, wherein the method further comprises generating first and

standardized factors (z-scores, liked most, like least, zLM, zLL, social preference, social

impact; Pages 40-41); computing a first score by SF1-SF2 (social preference, SP = zLM

– zLL (i.e. SF1); computing a second score by SF1 + SF2 (social impact, SI = zLM +

zLL; SF2); and standardizing the first and second scores (zLL, zLM, SS1/SS2; Pages

40-42; Figure 18) in an analogous art of sociometrics for the purposes of making it

possible to normatively compare scores between groups and/or over time (Paragraph 1,

Page 41).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for collecting and analyzing sociometric data as taught by

SociometryPlus would have been used to analyze a plurality of groups/individuals

including but not limited to schoolchildren as well as benefited from utilizing a plurality of

traditional sociometric factors/scores/measures including but not limited to z-scores,

social impact or social preference in view of the teachings of Sherman; the resultant

system enabling teachers/educators understand schoolchildren status and/or

relationships in order to identify potentially at risk children (Sherman: Paragraphs 1-2,

Page 3) by normatively comparing scores between groups and or over time (Sherman:

Paragraph 1, Page 41).

Regarding Claim 13 SociometryPlus teaches a system and method for collecting

and analyzing sociometric data wherein respondents are classified into a plurality of

sociometric classifications/categories including but not limited to individualist, leader,

isolationist and the like. (reference A: Pages 14-20).

SociometryPlus does not expressly teach classifying respondents into the six

sociometric classifications utilizing the equations/formulas or that the respondents are

schoolchildren as claimed.

Sherman teaches classifying sociometric survey/questionnaire respondents,

schoolchildren, into at least the following classifications (groups, categories, etc.; Pages

12-13, 40-42; Figures 3 and 18):

- Popular $SP > 1$, $zLM > 0$, and $zLL < 0$;

- Rejected $SP < -1$, $zLM < 0$, and $zLL > 0$;

- Neglected $SI < -1$, $zLM = 0$, and $zLL = 0$;

- Controversial $S I > 1$, $zLM > 0$, and $zLL > 0$; and

- Average   all others

in an analogous art of sociometric analysis/classification for the purposes of

classifying/grouping and graphing (outputting) schoolchildren's classification (Paragraph

1, Page 12).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for collecting and analyzing sociometric data as taught by

SocimetryPlus would have benefited from classifying/grouping/identifying/assigning

schoolchildren to a plurality of classes/categories based on a one or more sociometric

measures including but not limited to social impact and/or social preference in view of

the teachings of Sherman; the resultant enabling users to classify/group and

output/display each individual's classification (Sherman: Paragraph 1, Page 12).

Neither SociometryPlus nor Sherman teach all of the specific classifications as claimed:

Class 1 (popular)	SS1>1, SF1 <0, and SF2>0;
Class 2 (rejected)	SS1<-1, SF1>0, and SF2<0;
Class 3 (neglected)	SS2<-1, SF1<0, and SF2<0;
Class 4 (controversial)	SS2>1, SF1>0, and SF2>0;
Class 5 (average)	-0.5<SS1<0.5, and –0.5<SS2 <0.5; and
Class 6 (unclassified)	all others.

Official notice is taken that classifying/categorizing respondents into a plurality of categories such as popular, rejected, neglected, controversial, average and unclassified utilizing one or more sociometric parameters, specifically using social preference and social impact, is old and very well known. More specifically classifying respondents "falling" into the middle range of values on a continuous/linear spectrum from popular → neglected as average (typical, common, normal, etc.) is old and well known.

It would have been obvious to one skilled in the art at the time of the invention that the system and method for collecting and analyzing sociometric data as taught by the combination of SociometryPlus and Sherman with its ability to classify/categorize respondents based on standardized scores/factors/measures into a plurality of categories on a continuum/spectrum from popular to rejected would have benefited from

classifying respondents "falling" into the middle range of values as average (typical, expected, normal, etc.) in view of the teachings of official notice.

Regarding Claim 14 SociometryPlus does not expressly teach indicating the schoolchildren least liked/most liked utilizing the generated SF1 as claimed

Sherman teaches indicating the least liked and most liked schoolchildren utilizing SF1 (Pages 40-42) in analogous art of sociometric analysis for the purpose of enabling teachers/educators to understand schoolchildren status and/or relationships in order to identify potentially at risk children (Sherman: Paragraphs 1-2, Page 3).

It would have been obvious to one skilled in the art that the system and method for collecting and analyzing sociometric data as taught by SociometryPlus would have benefited from indicating the most and least liked schoolchildren utilizing a standardized factor in view of the teachings of Sherman; the resultant system/method enabling teachers/educators understand schoolchildren status and/or relationships in order to identify potentially at risk children (Sherman: Paragraphs 1-2, Page 3).

Regarding Claims 15 and 17 SociometryPlus does not expressly teach calculating probability scores for each of the six sociometric social classifications indicating the reliability of an individual's classification within a group.

Official notice is taken that indicating the probability score (concordance, correspondence, accuracy, strength/weakness, etc.) of a calculated/determined measure (metric, value, parameter, score, etc.) to a classification/category is old and well known for providing an indication of the how "close" (well) the score is to the "ideal" (typically, expected) value(s) for that category.

It would have been obvious to one skilled in the art at the time of the invention that the system and method for collecting and analyzing sociometric data as taught by SociometryPlus would have benefited from indicating how closely the classified individual matched the "typical" individual classified in that category (reliability/probability score) in view of the teachings of official notice; the resultant system enabling users to judge (see, view, etc.) how close a match the individual is to the category/profile/classification they are categorized in.

Regarding Claim 16 SociometryPlus does not expressly teach calculating strength scores for each schoolchild indicative of the degree to which an individual's social classification is fixed versus fluid as claimed

Sherman teaches the stability (i.e. fluid or fixed) of sociometric measures/classifications in different settings or over time (Page 41) in an analogous art of sociometric analysis for the purposes of understanding how and if the schoolchild's

sociometric measure will change/evolve (e.g. "do kids change or maintain their social status as they grow older", Paragraph 1, Page 41).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for collecting and analyzing sociometric data as taught by SociometryPlus would have benefited from determining/calculating strength scores (i.e. stability) for each of the individual's classifications in view of the teachings of Sherman; the resultant system enabling users to ask/answer such questions as "do kids change or maintain their social status as they grow older" (Sherman: Paragraph 1, Page 41).

Regarding Claims 19, 30 and 36 SociometryPlus does not expressly teach detecting and indicating self-nominations as claimed.

Sherman teaches detecting and indicating self-nominations/scores (personal social distance; Pages 41-42) in an analogous art of sociometric analysis for the purposes of indicating such things as "that a child is "out-of-touch" with their "Social Reality" (Last Paragraph, Page 41).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for collecting and analyzing sociometric data as taught by SociometryPlus would have benefited from enabling respondents to rate/nominate themselves in view of the teachings of Sherman; the resultant system indicating such

things as "that a child is "out-of-touch" with their "Social Reality" (Sherman: Last

Paragraph, Page 41).

Regarding Claim 20 SociometryPlus does not expressly teach outputting a

scatter plot diagram/chart having coordinate axes indicating sociometric values as

claimed.

Sherman teaches outputting a scatter plot (chart, diagram, graph, scatter gram,

etc.; a graphical representation consisting of ordered pairs possibly showing a

relationship between two variable quantities) wherein the scatter plot has coordinate

axes indicating sociometric values, in analogous art of sociometric

analysis/classification for the purposes of classifying/categorizing respondents based on

their sociometric measures (factors, scores, etc.; Pages 12-13; Figure 4).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for collecting and analyzing sociometric data as taught by

SociometryPlus would have benefited generating a graphical representation consisting

of ordered pairs possibly showing a relationship between two sociometric

scores/factors/measures (scatter plot having coordinate axes indicating sociometric

values) in view of the teachings of Sherman; the resultant system enabling users to

visualize the classification of schoolchildren based on their sociometric measures

(factors, scores, etc.; Sherman: Pages 12-13; Figure 4).

Regarding Claims 21-22 SociometryPlus does not expressly teach representing/highlighting (indicating) selected schoolchildren and/or schoolchildren in subgroups on a scatter plot/diagram as claimed.

Sherman teaches generating a scatter plot (sociogram, chart, diagram, graph, scatter gram, etc.; a graphical representation consisting of ordered pairs possibly showing a relationship between two variable quantities), in analogous art of sociometric analysis/classification for the purposes of indicating the classification the schoolchildren/group/subgroups as well as indicating relationships between the schoolchildren/groups/subgroups based on their sociometric measures (factors, scores, etc.; Pages 12-13; Figure 4).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for collecting and analyzing sociometric data as taught by SociometryPlus would have benefited generating a graphical representation consisting of ordered pairs possibly indicating/highlighting the classifications and interrelations between the plurality of respondents/groups/subgroups in view of the teachings of Sherman; the resultant system enabling users to visualize the classification as well as the interrelationships between the plurality of respondents/groups/subgroups based on their sociometric measures (factors, scores, etc.; Sherman: Pages 12-13; Figure 4).

Regarding Claim 23 Sociometry does not expressly teach utilizing spatial regions within the scatter plot diagram/chart to represent sociometric social classifications as claimed.

Sherman teaches utilizing spatial regions within a scatter plot (chart, diagram, graph, scattergram, etc.) in analogous art of sociometric analysis for the purposes of classifying/categorizing respondents based on their sociometric measures (factors, scores, social classifications, etc.; Pages 12-13; Figure 4).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for collecting and analyzing sociometric data as taught by SociometryPlus would have benefited from utilizing spatial regions (rings) within/on a a graphical representation consisting of ordered pairs possibly showing a relationship between two sociometric scores/factors/measures (scatter plot) in view of the teachings of Sherman; the resultant system enabling users to visualize the social classification of respondents based on their sociometric measures (factors, scores, etc.; Sherman: Pages 12-13; Figure 4).

Regarding Claims 24-25 SociometryPlus does not expressly teach generating a slider bar for one or more sociometric questions wherein the slider bar indicates (represents, locates, etc.) an schoolchild's ranking (score, classification, etc.) with

respect to the question (i.e. represents their score on a continuum/scale for the

question) as claimed.

Sherman teaches sociometric collecting and analyzing sociometric ratings

utilizing a ratings scale (range, continuum, distance, etc.; Pages 41-42; Figure 18)

wherein schoolchildren rate peers from 1-5, the collected ratings are then weighted and

standardized so that the scores (ratings, distance) form a continuous range from 1-5 in

an analogous art of sociometric analysis for the purposes of providing a score wherein

every schoolchild contributes to each other schoolchild's score (Paragraph 2, Page 42).

It would have been obvious to one skilled in the art at the time of the invention

that the method and system for collecting and analyzing sociometric data as taught by

SociometryPlus would have benefited from utilizing a plurality of continuous/ranged

sociometric measures including but not limited to social distances and/or sociometric

rankings in view of the teachings of Sherman; the resultant system enabling users to

evaluate schoolchildren sociometrics through a plurality of well known sociometric

techniques and/or utilize a socimetric technique such that every schoolchild contributes

to each other schoolchildren's score (Sherman: Paragraph 2, Page 42).

Official notice is taken that representing a continuous value (measure, score,

etc.) utilizing a continuum/scale/range via a linear bar/graph (slider bar) is old and well

known for providing a convenient mechanism for indicating where on the continuum a

value lies.

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for collecting and analyzing sociometric data as taught by

the combination of SociometryPlus and Sherman with its ability to determine a plurality

of sociometric measures including but not limited to continuous measures/scores/ranks

would have benefited from displaying/outputting the values of the continuous measures

by indicating the measures value/location on a continuum/scale/range (slider bar) in

view of the teachings of official notice; the resultant system providing a convenient

mechanism for indicating where on the continuum the score lies.

Regarding Claims 28 and 34, Claims 28 and 34 recite similar limitations to

Claims 15-17 and are therefore rejected using the same art and rationale as applied in

the rejection of Claims 15-17.

Regarding Claims 29 and 35 SociometryPlus does not expressly teach detecting

and indicating reciprocal nominations as claimed.

Sherman teaches detecting and representing mutual choices (i.e. reciprocal

relationships/links; Pages 28, 31, 34; Figures 12, 14, 16-17) in an analogous art of

sociometric analysis/classification for the purposes of identifying/detecting and

diagnosing peer relationships, friendships and/or social status of schoolchildren in order

to identify potentially at risk schoolchildren (Paragraphs 1 and 4; Page 3).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for collecting and analyzing sociometric data as taught by

SociometryPlus would have benefited from detecting and indicating reciprocal

nominations in view of the teachings of Sherman; the resultant system enabling users to

diagnose the peer relationships amongst a plurality of schoolchildren (Sherman:

Paragraphs 1 and 4; Page 3).

Regarding Claims 31 and 37, Claims 31 and 37 recite similar limitations to

Claims 20 and 24-25 and are therefore rejected using the same art and rationale as

applied in the rejection of Claims 20 and 24-25.

9.   Claims 2-5 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable

over SociometryPlus by Online, Ltd. aspects of which are disclosed in at least the

following:

    I. SociometryPlus 2.0b – Help Files & Screen Shots (April 2000), hereinafter

    reference A; and

    II. Sociometry.com Web Pages (April 2000), herein after reference B

    in view of Sherman, Lawrence, Sociometry In The Classroom: How To Do It

(October 19, 2000) as applied to claims 1, 7-17 and 19-37 above and further in view of

Van Duyne et al., U.S. Patent No. 6,859,784.

    Regarding Claim 2 SociometryPlus teaches a system and method for collecting

and analyzing sociometric data wherein creating a sociometric questionnaire further

comprises:

    - displaying a plurality of questions to be included in the questionnaire (reference

A: Figures 2-7 as shown above; reference B: Pages 1, 11 and 15);

    - accepting user selections of the questions (reference A: Figures 2-7 as shown

above; reference B: Pages 1, 11 and 15); and

    - generating a questionnaire containing the user questions (reference A: Figures

2-7 as shown above; reference B: Pages 1, 11 and 15).

Neither SociometryPlus nor Sherman expressly teach the user selecting one or more questions from a list of predetermined questions having a known relationship as claimed.

Van Duyne et al. teach user selecting one or more questions from a list of predetermined questions having a known relationship (e.g. research metric, question, etc.; Column 2, Lines 9-12) in an analogous art of surveys for the purposes of enabling users to customize survey/research questions as well as conduct research/surveys via a website (Column 1, Lines 50-68; Column 2, Lines 1-8 and 61-68; Column 11, Lines 34-54; Figure 1, Element 122; Figure 3).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for performing sociometric analysis of a group of schoolchildren as taught by the combination of SociometryPlus and Sherman would have benefited from enabling users to select one or more questions from a list of predetermined questions having a known relationship in view of the teachings of Van Duyne et al.; the resultant system/method enabling users to customize survey/research questions as well as conduct research/surveys via a website (Van Duyne et al.: Column 1, Lines 50-68; Column 2, Lines 1-8 and 61-68; Column 11, Lines 34-54; Figure 1, Element 122; Figure 3).

Regarding Claims 3 and 38 SociometryPlus teaches a system and method for

collecting and analyzing sociometric data wherein the questions solicit nominations

(reference A: Pages 1-5; Figures 1-18 as shown above; reference B: Pages 1-3).

SociometryPlus does not expressly teach that nominations are selected from the

group consisting of liked most, liked least, is aggressive, is picked on, is teased, is

weird, is a friend and is not a friend as claimed.

Sherman teaches collecting nominations for a plurality of customized sociometric

questions including but not limited to most liked, least liked, best friends, and the like

(Pages 5, 44), in an analogous art of sociometric analysis, for the purposes of

diagnosing peer relationships amongst a plurality of schoolchildren and/or identifying at

risk schoolchildren (Paragraphs 1 and 4; Page 3). Sherman further teaches classifying

individuals, based on one or more sociometric factors/classifications, including but not

limited to popular, liked more than disliked, disliked more than like, controversial,

rejected and neglected (Pages 12-13, 41).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for collecting and analyzing sociometric data as taught by

SociometryPlus would have benefited from classifying schoolchildren into a plurality of

sociometric classifications in view of the teachings of Sherman; the resultant system

enabling users to diagnose the peer relationships amongst a plurality of schoolchildren

and/or identify at risk schoolchildren (Sherman: Paragraphs 1 and 4; Page 3).

While both SociometryPlus and Sherman teach creating, conducting and

analyzing customized sociometric questions in order to classify the plurality of

respondents utilizing well known and traditional sociometry techniques neither

SociometryPlus nor Sherman expressly teach classifying schoolchildren into is

aggressive, is picked on, is teased, is weird, is a friend and is not a friend as

categories/classifications as claimed however; these differences are only found in the

non-functional descriptive material and are not functionally involved in the steps recited

nor do they alter the recited structural elements. The recited method steps would be

performed the same regardless of the specific labels applied to the sociometric

categories. Further, the structural elements remain the same regardless of the specific

labels applied to the sociometric categories. Thus, this descriptive material will not

distinguish the claimed invention from the prior art in terms of patentability, *see In re*

Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32

F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claim 4 SociometryPlus teaches a system and method for collecting

and analyzing sociometric data wherein participants can be divided in to

groups/subgroups, accepting individual names by subgroup and assigning a unique

identifier to each individual (reference A: Pages 3, 7; Figures 1 and 14-15 as shown above).

Sherman does not expressly teach that the subgroups are schoolchildren or assigning a unique identifier to each schoolchild other than the schoolchild's name as claimed.

Sherman teaches performing sociometric analysis on a plurality of schoolchildren wherein the children are divided into subgroups (Step 4, Page 12; Page 41) as well as assigning a unique identifier to each schoolchild other than the schoolchild's name (picture, number, etc.; Last Paragraph, Page 39; Paragraph 1, Page 40) in an analogous art of sociometric analysis for the purposes of assisting schoolchildren in completing the sociometric surveys/interviews wherein some children are unable to read a list of names (Last Paragraph, Page 39).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for performing sociometric analysis as taught by SociometryPlus would have used to perform the sociometric analysis/classification of a plurality of respondents including but not limited to schoolchildren and benefited from assigning unique identifiers, other than the schoolchild's name, to schoolchildren in view of the teachings of Sherman; the resultant system/method enabling teachers/educators understand schoolchildren status and/or relationships in order to identify potentially at

risk children (Sherman: Paragraphs 1-2, Page 3) as well as assisting schoolchildren in completing the sociometric surveys/interviews wherein some children are unable to read a list of names (Sherman: Last Paragraph, Page 39).

Regarding Claim 5 SociometryPlus teaches a system and method for collecting and analyzing sociometric data wherein individuals are sorted by first name (reference A: Page 3; Figures 1 and 14-15).

SociometryPlus does not expressly teach performing the sociometric analysis of schoolchildren or subsequently sorting the schoolchildren by first name as claimed.

Sherman teaches sorting the schoolchildren by first name in an analogous art of sociometric analysis (Paragraph 1, Page 8; Figure 18).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for performing sociometric analysis as taught by SociometryPlus would have used to perform the sociometric analysis/classification of a plurality of respondents including but not limited to schoolchildren; the resultant system/method enabling teachers/educators understand schoolchildren status and/or relationships in order to identify potentially at risk children (Sherman: Paragraphs 1-2, Page 3).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

- Wanninger et al., U.S. Patent No. 4,937,439, teaches a computer-implemented

system and method for conducting paper surveys comprising customized questions.

- Walker et al. U.S. Patent No. 6,093,026, teaches a system and method for

conducting surveys further comprising performing error/consistency checks on the

responses received from respondents.

- Maassen et al., Two-dimensional sociometric status determination (1996),

teach a method and system for performing sociometric analysis of schoolchildren

wherein schoolchildren are provided a sociometric questionnaire comprising a plurality

of sociometric questions ("sometimes nominations, sometimes ratings") related to social

status and/or social relationships and further wherein the schoolchildren are

classified/categorized into a plurality of groups/subgroups (to popular, rejected,

neglected, controversial, average, etc.) based on the values of the sociometric

metrics/data. Maassen et al. further teach the old and very well known use/acceptance

of sociometric analysis in education.

- Hansen et al., Reconsideration of the use of peer sociometrics for evaluating

social-skills training (1996) teaches a method for performing sociometric analysis on a

plurality of children using well known sociometric techniques/methods (peer-

nominations measures of liking, peer-rating measures of liking).

- Frederickson et al., Sociometric classification methods in school peer groups

(1998) teaches a method for performing sociometric analysis of schoolchildren using 13

well known sociometric analysis techniques/methods wherein schoolchildren are

classified/categorized into a plurality of social relationships/groups based on the

sociometric analysis data.

- Maassen, Gerard, Ratings as validation of sociometric status determined by

nominations in longitudinal research (1998) teaches a method for performing

sociometric analysis of schoolchildren wherein schoolchildren are classified/categorized

into a plurality of categories/groups/classes based on the sociometric analysis.

Maassen further teaches the well-known utilization of sociometric analysis in education.

- LaFontana et al., Children's interpersonal perceptions as a function of

sociometric and peer-perceived popularity (1999) teaches a method for performing

sociometric analysis of schoolchildren wherein "Continuous measures of popularity form

the bases for the classification of children into sociometric status groups." LaFontana et

al. further teach that "Children's sociometric status is traditionally measured by asking

other children to name peers they like most and those they like the least, then

calculating standardized social preference scores (liked most minus liked least votes

received) and social impact scores (liked most plus liked least votes received) for each

child." LaFontana et al. further teach calculating predilection, correspondence and

accuracy scores.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-

7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

5/24/2006

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